IN THE HIGH COURT OF BOMBAY AT GOA
*****
WRIT PETITION NO. 227 OF 2002

Shri Tahir Isani,
s/o Vasanali Isani,
major of age,
businessman, r/o
Mapusa, Goa. ... Petitioner.

Versus

1. Mr. Jose Filipe Pegado Braganza alias Mr. Joseph Philip Braganza, s/o Joao Martinho Braganza, r/o Angod, Mapusa, Goa,

2. Mrs. Wilma Jaques Braganza, wife of Mr. Jose Filipe Pegado Braganza, housewife, r/o Angod, Mapusa, Goa,

3. Mr. Fernando Claudio Ribeiro, s/o Antonio Ribeiro, major, r/o Azavedo House, Opp. Don Bosco, Panaji,

4. Mrs. Maria Wanda De Lima Pereira Ribeiro, wife of Fernando Claudio Ribeiro, major, r/o Azavedo House, Opp. Don Bosco, Panaji,

5. Smt. Marta Simoes alias Maria Carvalho, major, married, r/o Chandor, Salcete, Goa,

6. Smt. Margarida Mimilia Da Graca Carvalho, r/o Margao, Goa,

7. Shri Vincent Cieto Socorro Fernandes, r/o Margao, Goa,

8. Shri Antonio Mirelio Jose Carvalho alias Mirelio Antonio Jose Carvalho, r/o Chandor, Salcete, Goa, presently at Doha Qatar,

9. Smt. Sheila Carmina Dourado, r/o Doha Qatar,

10. Smt. Maria Mividima Da Graca Carvalho Cunha Gomes, r/o Mapusa, Bardez, Goa,

11. Shri Romeno Antonio Rangel de Cunha Gomes alias Romero De Cunha Gomes, r/o Mapusa, Bardez, Goa,

12. Shri Melidio Jose Thomas Carvalho, r/o Colva, Salcete, Goa,

13. Smt. Saozinha Fernandes e Carvalho, r/o Chandor, Salcete, Goa, presently r/o Doha Qatar,

14. Shri Miguel Jose Do Carmo Carvalho, r/o Chandor, Salcete, Goa, presently r/o Doha Qatar,

15. Smt. Mariota Sunita Francisca Genoeva Justiana Barreto, r/o Chandor, Salcete, Goa, presently r/o Doha, Qatar. (Sr. No.6 to 14 above-named represented by their duly constituted Attorney the said Smt. Marta Carvalho, respond-ent no.5 above named), and

16. The Indian Hotels Company Ltd., a Public Limited Company incorporated under the Indian Companies Act, carrying on business, inter alia, of Hoteliers, with their Registered Office at Mandlik House, Mandlik Rd., Bombay 400 039 and having a Hotel Complex at Dando, Candolim, Bardez, Goa. ... Respondents.

Shri M. S. Sonak, advocate for the petitioner.

Shri S. D. Lotlikar, Senior Advocate with Shri A. D. Bhobe, advocate for the respondents no.1 to 4.

Shri E.Dias, advocate for respondents no.5,8,9,12,13,14 & 15.

Shri S. V. Kamat, advocate for respondent no.16.

CORAM: S. RADHAKRISHNAN, J.
DATE: 5th September, 2002.

ORAL JUDGMENT

Rule. Rule made returnable forthwith by consent. Heard learned counsel for the parties. Learned counsel for the respondents waives service. By consent, taken up for hearing forthwith.

2. By this petition the petitioner is challenging the Order dated 24th June, 2002, whereby the application filed by the petitioner/plaintiff before the trial Court, being Exh. 53 for issue of summons for calling and also for examining certain witnesses, as listed hereunder, was rejected:-

1. Mrs. Martha Simoes, defendant no.6 as per address shown in the cause title;
2. Mr. I. G. Virani, Mapusa, Goa,
3. Mr. Victor Rego, Panaji, Goa;
4. Mr. Sudin Usgaokar, having office at Manguirish Bldg., Panaji, Goa,
5. Dr. Gustavo Couto, Rtd. Justice, High Court of Mumbai, residing at Panaji, Goa,
6. Mrs. Melba Britto, defendant no.1,
7. Mr. Earl Britto, residing at Candolim, Bardez, Goa, and
8. Mr. Anthony Menezes, residing at Candolim, Bardez, Goa.

It appears that the learned Judge had declined to grant the said application mainly on the ground that the hearing

of the suit has already been expedited and the suit was to be finally disposed of by 28th June, 2002, at that time and now, it appears that the time has been extended upto 28th September, 2002.

3. After hearing the parties for sometime, learned counsel for all the parties have agreed that in the larger interests of justice, the plaintiff/petitioner herein, should be afforded a fair opportunity to examine the witnesses and in the light of the above statement of the learned counsel on behalf of the respondents, the impugned Order dated 24th June, 2002, is quashed and set aside.

4. It is made clear that the petitioner shall be at liberty to make an appropriate application before the trial Court for issue of summons with regard to examining of defendant no.6 and the learned counsel for the petitioner also assures this Court that within a period of six weeks he will examine all other witnesses, whomsoever the plaintiff wishes to examine. Under these circumstances, the time is extended for disposal of the above Special Civil Suit No.13/2000/II-SR upto 31st December, 2002.

5. Rule is made absolute in the above terms.

S. RADHAKRISHNAN, J.